

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DVH COMPANIES, INC.,
D/B/A SOUTHWEST WHEEL COMPANY,
AND D/B/A ETRAILERPART.COM,

Plaintiff

VS.

BROPFS CORPORATION
D/B/A ETRAILER.COM,

Defendant.

Civil Action No. 3-06CV2084-P

MOTION TO SET ASIDE ENTRY OF DEFAULT

Defendant Bropfs Corporation d/b/a etrailer.com (“Bropfs”), by and through its undersigned attorneys, and pursuant to Rules 55(c) and of the Federal Rules of Civil Procedure hereby moves this Honorable Court to set aside the entry of default entered by the Clerk on December 12, 2006. Pursuant to Fed. R. Civ. P. 6(e) and an express decision of this Court on the same facts, Bropfs’ Answer is not actually due until December 14, 2006, 23 days after service on the Secretary of State. In the alternative, if this Court rejects precedent from this Judicial District and deems Bropfs’ Answer to have been due on December 11, 2006, Bropfs’ showing of good cause herein entitles it to have the Entry of Default set aside.

For the reasons stated herein and as more fully detailed in the accompanying Memorandum of Law, Defendant respectfully requests that this Court set aside the Clerk's Entry of Default.

Dated: December 15, 2006

Respectfully submitted,

PATTON BOGGS LLP

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CERTIFICATE OF CONFERENCE

On December 15, 2006, pursuant to Local Rule 7.1(h), I conferred with Pieter J. Tredoux about the substance of this motion and it is opposed.

/s/ Talcott J. Franklin

Talcott J. Franklin

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing Defendant's Original Answer and Counterclaim was served upon all counsel of record by notice of electronic filing, pursuant to FED. R. CIV. P. 5(b)(2)(D), today, December 15, 2006, and US Mail.

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